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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,010	01/03/2001	Mark E. Dillon	E-1950	3438
7590 11/02/2010 John F. A. Earley III 86 The Commons At Valley Forge East 1288 Valley Forge Road P.O. Box 750 Valley Forge, PA 19482-0750				
EXAMINER				
PURDY, KYLE A				
ART UNIT		PAPER NUMBER		
1611				
MAIL DATE		DELIVERY MODE		
11/02/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/754,010

Applicant(s)

DILLON, MARK E.

Examiner

Kyle Purdy

Art Unit

1611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-36 and 38-54 is/are pending in the application.
- 4a) Of the above claim(s) 46-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-36 and 38-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/ISA/C3)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/20/2010 has been entered.

Status of Application

2. The Examiner acknowledges receipt of the amendments filed on 9/20/2010 wherein claims 64, 39, 41, 42 and 44 has been amended and claim 37 has been cancelled.

3. Claims 34-36 and 38-45 are presented for examination on the merits. The following rejections are made.

Response to Applicants' Arguments

4. Applicants arguments filed 9/20/2010 regarding the rejection of claims 34-36 made by the Examiner under 35 USC 102(e) over Lindqvist et al. (US 6051747) have been fully considered and they are found persuasive. This rejection has been overcome by amendment to the claims.

5. Applicants arguments filed 9/20/2010 regarding the rejection of claims 34, 36, 40 and 45 made by the Examiner under 35 USC 102(b) over Hofeditz et al. (US 4552138) have been fully considered and they are found persuasive. This rejection has been overcome by amendment to the claims.

6. Applicants arguments filed 9/20/2010 regarding the rejection of claims 34-36, 38, 42, 43 and 45 made by the Examiner under 35 USC 102(b) over Freeman et al. (US 5681579) have

been fully considered and they are found persuasive. This rejection has been overcome by amendment to the claims.

7. Applicants arguments filed 9/20/2010 regarding the rejection of claims 37 and 39-42 made by the Examiner under 35 USC 103(a) over Lindqvist et al. (US 6051747) in view of Lorenz et al. (US 5258421), evidenced by US 4832009 have been fully considered and they are found persuasive. This rejection has been overcome by amendment to the claims. It's noted claim 37 has been cancelled

8. Applicants arguments filed 9/20/2010 regarding the rejection of claims 44 made by the Examiner under 35 USC 103(a) over Lindqvist et al. (US 6051747) in view of Freeman et al. (US 5681579) have been fully considered and they are found persuasive. This rejection has been overcome by amendment to the claims.

9. Applicants arguments filed 9/20/2010 regarding the rejection of claims 37 and 39-41 made by the Examiner under 35 USC 102(b) over Freeman et al. (US 5681579) in view of Lorenz et al. (US 5258421) evidenced by 4832009 have been fully considered and they are found persuasive. This rejection has been overcome by amendment to the claims. It's noted claim 37 has been cancelled

New Rejections, Necessitated by Amendment

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 34-36 and 38-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (US 5681579; of record) in view of Lorenz et al. (US 5258421; of record), evidenced by US 4832009 (of record).

12. Freeman discloses a polymeric support wound dressing (see abstract). Figure 1 discloses the occlusive layer (11) (second layer) bonded by adhesives (13) means to a hydrocolloid containing polymeric layer (12) (first layer).



The occlusive layer 11 has an upper or outer surface 14, which is open to the atmosphere and an inner surface 13, which is the side toward the skin. The occlusive layer is preferably a polyurethane foam. See column 4, lines 30-31. The adhesive layer may for example extend across the entire under surface 13 of the occlusive layer or only a portion of it. The polymeric support layer 12 is any polymeric material useful in medical settings and is in the form of a web, net, perforated film or perforated layer. The polymeric support layer 12 contains a hydrocolloid either blended with the polymeric material. When the hydrocolloid is blended with the polymeric material it is preferred that the two materials be extruded together to form a film. See column 5, lines 1-30. It should be noted that a membrane is defined as a "thin, soft pliable sheet or layer"; thus Freeman's polymeric support reads on instantly claimed "membrane layer". The polymeric support layer is 0.5-3 mils (35 microns to 76 microns). See column 4, lines 5-8. The adhesive layer is made of various substances including silicone rubber. See column 6, line 31.

13. The dressing requires a hydrocolloid centered on polyurethane foam, which is adhered to a perforated polyurethane perforated film (see column 10, lines 20-45). The polymeric support layer is 0.5-3 mils (35 microns to 76 microns) (see column 4, lines 5-8)

14. Freeman does not teach the use of instant silicone-polytetrafluoroethylene IPN membrane layer or a pigment.

15. Lorenz et al teaches a hydrophilic gel dressing (see abstract). The dressing is made of a tacky gel of polyurethane and poly (N-vinyl lactam) on a substrate. Lorenz teaches coating the gel layer on a backing substrate that provides liquid barrier properties and may be a polymer film

such as polyurethane. The polymer film may also be silicone-polytetrafluoroethylene IPN membrane. Lorenz teaches silicone-polytetrafluoroethylene has particular utility in wound dressing because it keeps moisture in and excess exudate is absorbed to promote healing (see column 5, lines 50-68). When the backing substrate is of the instant silicone-polytetrafluoroethylene, the structure is also useful as a burn blanket (see 5, lines 30-33 and column 6, lines 28-30). Additionally, the backing substrate may be covered by a silicone-coated release-liner. Additionally, Lorenz teaches the use of various conventional additives such as pigments and dyes in the gels (see column 4, lines 49-55).

16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Freeman and Lorenz and replace Freeman's polyurethane polymer film with the instant silicone-polytetrafluoroethylene IPN polymer film. One would have been motivated to do so since Lorenz teaches that both polyurethane films and the instant film have Liquid barrier properties; however the instant IPN polymer film provides certain advantages for wound and burn dressing by keeping the moisture in, preventing bacteria from entering the wound and absorbing the excess exudates, thereby promoting healing Therefore, a skilled artisan would have been motivated to utilize the instant polymer film (IPN) in the wound dressing over Freeman's polyurethane film for the advantages taught by Lorenz, i.e. if one desired to provide a structure that also promoted healing by preventing re-infection, i.e. by preventing bacteria from entering the wound site.

17. With regard to claim 40, it would have been obvious to add a pigment to the gel if one desired for an article with a gel layer with a distinct layer. It should be noted that the instantly

claimed aesthetic design change does not impart patentable significance with regard to the mechanism in which the wound article functions.

18. With regard to claim 41, it is noted that polymeric film layers are implicitly translucent unless a pigment is added. Further, it should be noted that US '009 substantiates the examiner's position that the silicone-polytetrafluoroethylene IPN are transparent. Note column 1, lines 55-60 of US '009. Thus, thus reads on "substantially transparent". Further, polyurethane foams are implicitly opaque. With regard to the addition of pigment to the adhesive layer, it is considered prima facie obvious to add a pigment to any layer to distinguish each layer. It should be noted that the instantly claimed aesthetic design change does not impart patentable significance with regard to the mechanism in which the wound article functions.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle A. Purdy whose telephone number is 571-270-3504. The examiner can normally be reached from 9AM to 5PM.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sharmila Landau, can be reached on 571-272-0614. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kyle Purdy/

Examiner, Art Unit 1611

October 26, 2010

/Sharmila Gollamudi Landau/

Supervisory Patent Examiner, Art Unit 1611